

REMARKS

Claims 2-15 and 39-44 are pending. Claim 1 is cancelled. Claims 16-38 are withdrawn from consideration. Claim 2 has been amended to clarify the claimed invention based on the Examiner's position expressed in the previous Office Action. The dependent claims 3-15 and 39-44 have been amended to make them consistent with the amended claim 2.

REJECTION UNDER 35 U.S.C. 103

Claims 2-15 and 39-44 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Perkowski in view of Roach et al.

In response to the Applicant's arguments, the Examiner admits that the prior art references do not disclose a retail network comprising at least one district network including a district node and multiple regional networks, each having a regional node and multiple points of sale, and a system for processing orders received from a client terminal capable of sending a request providing indication of an item being ordered and indication of a point of sale selected for delivery of the item, together with an identifier of a customer. However, he takes the position that this recitation "has not been given a patentable weight because the recitation occurs in the preamble."

To comply with the Examiner's requirement, claim 2 has bee amended to place the above recitation in the body of the claim.

Accordingly, claim 2 is clearly defined over the prior art.

Moreover, the applied references do not disclose an order support server causing the client terminal to produce a graphical user interface that enables the customer to place an order for delivery of the item within the regional network to the selected point of sale, if the item is available in the regional network, as claim 2 requires.

In response to this arguments, the Examiner relies upon paragraphs 0416-0417 of Perkowski that disclose “an order support terminal which causes goods to be identified to consumers for order placement”(see section 9 of the Office Action).

As clear from the language of the Office Action, the Examiner realizes that Perkowski does not disclose the order support server that operates in the manner recited in claim 2. However, it appears that he believes that the Perkowski terminal inherently operates in the claimed manner.

This Examiner’s position is respectfully traversed. As one skilled in the art would realize, “an order support terminal which causes goods to be identified to consumers for order placement” (of Perkowski) does not need to cause the client terminal (sending a request providing indication of an item being ordered and indication of a point of sale selected for delivery of the item, together with an identifier of a customer) to produce a graphical user interface that enables the customer to place an order for delivery of the item within the regional network to the selected point of sale, if the item is available in the regional network, as claim 2 requires.

Accordingly, the Examiner’s position is not warranted.

Further, Applicant submitted that the prior art does not disclose:

an order support server that determines a first node outside of the regional network, at which the item is available, and enables the customer to place an order for delivery of the item from the first node to the selected point of sale, if the item is not available in the regional network, and

a first server associated with the first node, and configured for receiving the request if the item is not available in the regional network, the first server being further configured for

arranging a delivery path for delivery of the item from the first node to the selected point of sale, as claim 2 requires.

The Examiner did not address these features in his response.

Instead, he contends that the Applicant's arguments are directed against the references individually.

Applicant respectfully submits that the Examiner misrepresents the Applicant's position.

Applicant arguments demonstrated that a combination of Perkowski and Roach does not teach or suggest the invention of claim 2.

In particular, the Examiner relies upon Roach et al. for disclosing that the customer is enabled to specify placing an order for delivery from a first node to a selected point of sale.

Roach et al. discloses an order and delivery system that integrates point of sale and warehouse processing functions to enable delivery of merchandise to customers in the shortest possible time.

However, Roach et al. does not teach or suggest determining the claimed first node outside of the regional network, at which the item is available, and enabling the customer to place an order for delivery of the item from this node to the selected point of sale, if the item is not available in the regional network.

Therefore, this reference cannot suggests enabling the customer to specify placing an order for delivery from a node outside of the regional network, if the item is not available in the regional network, as claim 2 requires.

It is well settled that the test for obviousness is what the combined teachings of the references would have suggested to those having ordinary skill in the art. *Cable Electric Products, Inc. v. Genmark, Inc.*, 770 F.2d 1015, 226 USPQ 881 (Fed. Cir. 1985). In determining whether a case of *prima facie* obviousness exists, it is necessary to ascertain whether

the prior art teachings appear to be sufficient to one of ordinary skill in the art to suggest making the claimed substitution or other modification. *In re Lalu*, 747 F.2d 703, 705, 223 USPQ 1257, 1258 (Fed. Cir. 1984).

As demonstrated in the Applicant's arguments, the combined teachings of Perkowsky and Roach are not sufficient to arrive at the invention recited in claim 2.

Therefore, claim 2 is not obvious over the combined teachings of Perkowsky and Roach.

OBJECTION TO THE DRAWINGS

Drawings have been objected under 37 CFR 1.83(a) because the order support server, graphical user interface, the first server, routing a delivery path, arranging a return path, routine protocol, intermediate server, local computer and regional computer are not shown.

The Examiner's objection is respectfully traversed.

The Examiner's attention is directed to the MPEP 608.02(d) indicating that "any structural detail that is of sufficient importance to be described should be shown in the drawing. (*Ex parte Good*, 1911 C.D. 43, 164 O.G. 739 (Comm'r Pat. 1911).)"

Accordingly, only structural details of the claims should be shown.

Applicant respectfully submits that the graphical user interface, routing a delivery path, arranging a return path, and routine protocol are not structural details. Therefore, they don't need to be shown.

Further, as indicated in paragraph 36 of the specification, the order support server may be implemented by a computer associated with a point of sale POS shown in FIG. 2, regional node RN (FIGS. 1 and 2) or district node DN (FIG. 1).

The first server is shown, for example, in FIG. 1 as server S next to the specialty node SN.

The words "intermediate server" is not found in the claims.

Further, the words "local computer" and "regional computer" are found in claim 44 that recites "a local computer associated with the selected point of sale and a regional computer associated with a regional node."

Accordingly, one skilled in the art would realize that the local computer may be any computer associated with the points of sale POS shown in FIG. 2, and the regional computer may be any computer associated with the regional nodes RN shown in FIGS. 1 and 2.

It is respectfully submitted that no further details in the drawings are required for one skilled in the art in order to understand the claimed invention.

In view of the foregoing, and in summary, claims 2-15 and 39-44 are considered to be in condition for allowance. Favorable reconsideration of this application, as amended, is respectfully requested.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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